IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 1032 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHRI SANJAYBHAI KANAHIYALAL KANABAR
Versus
STATE OF GUJARAT & ANR

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Appearance :
MR KJ KAKKAD for Applicant
MR KC SHAH APP for Respondent
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE J.R.VORA
Date : 28/12/2005

ORAL JUDGMENT

1 RULE. Waived by learned APP Mr. K.C. Shah for the respondent State. Upon request of learned

counsels for the parties, the matter was heard finally.

2 The only grievance which is made in this Revision Application is in respect of the conditions saddled with the order of granting exemption to the present applicant in three criminal cases from personal attendance.

3 True it is that, once the accused was absconding and, therefore, the anxiety of the court is reflected in the conditions saddled with the order passed on 28th of November, 2005 by learned Chief Judicial Magistrate, Rajkot, below Application Exh.30.

4 The principle of law is that the trial must proceed in the presence of the accused in furtherance of fair trial, the exception therefore is carved that whenever the attendance of the accused is not required, court may grant exemption to the accused from attending personally throughout the trial.

Learned Advocate for the applicant Mr. Kakkad ensures this Court that on each date of the Trial, the learned Advocate for the accused shall remain present before the court, and that whenever it is necessary and so directed by the court, accused shall remain present before the Trial Court.

5 In the above view of matter and having regard to the facts and circumstances of the case, Condition No.1 saddled with the impugned order in respect of presence of the accused on each third adjournment and Condition No. 4 prohibiting the accused to leave this country, are quashed. While Condition No.2 in respect that the learned Advocate for the accused shall remain present on each date and Condition No.3 that whenever so directed by the Court, the accused shall attend the court below, remains uninterferred. It is further directed that in case circumstances so demands that the accused is required to leave this country, he shall inform the Trial Court and the Trial Court shall pass appropriate orders.

6 With the above directions, this Revision Application is disposed of. Rule is made absolute to above extent. DS permitted.

(J.R.VORA, J.)

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